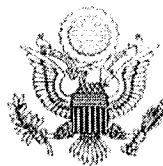


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Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
Washington, DC 20460

Mary Jackson
Office of Resource Conservation and Recovery
Environmental Protection Agency, 5304P
Washington, DC 20460

July 12, 2018

Dear Acting Administrator Wheeler and Ms. Jackson,

We write to you in strong opposition to the Environmental Protection Agency's (EPA) March 15, 2018 proposal to weaken critical protections provided by the 2015 coal ash rule. Without adequate protections in place, millions of American families, wildlife, and our streams and rivers will be left unprotected from toxic coal ash exposure, contamination, and catastrophic spills.

As you know, coal ash poses an enormous threat to the health and safety of Americans across the country. Hazardous chemicals such as mercury, lead, chromium, arsenic, selenium, and boron can have devastating health effects, including nervous system damage; developmental issues in children; increased risk of cancer; eye, nose, and throat irritation; and increased instances of asthma when particles are leaked into groundwater or blown into the air¹. In addition to health hazards, spills can cause direct harm to wildlife, especially aquatic life in polluted waterways, potentially killing large populations of sensitive species.

Proper guidance and regulation for the storage and disposal of coal ash waste is critical to ensure the health and safety of the American public. For years, the federal government lacked comprehensive rules for coal ash disposal, which undoubtedly contributed to two major coal ash spills in the last decade – the Tennessee Valley Authority's Kingston Fossil Plant spill in 2008, which allowed 5.4 million cubic yards of ash to pollute nearby rivers², and the 2014 spill at a

¹ U.S. Environmental Protection Agency, Office of Solid Waste and Emergency Response, Office of Resource Conservation and Recovery. "Human and Ecological Risk Assessment of Coal Combustion Wastes." Draft EPA document. P.ES-7 (April 2010).

² U.S. Environmental Protection Agency, EPA Response to Kingston TVA Coal Ash Spill, <https://www.epa.gov/tn/epa-response-kingston-tva-coal-ash-spill> (last visited May 11, 2018).

Duke Energy plant in North Carolina that resulted in 39,000 tons of coal ash polluting the Dan River³.

In the wake of these incidents, EPA began extensive consultations with utilities, affected industries, environmental groups, and other stakeholders to develop a commonsense rule for the appropriate regulation of coal ash waste. These regulations included structural integrity requirements for coal ash impoundments, groundwater monitoring and corrective action standards, operating criteria for coal ash units, and record keeping and public disclosure requirements⁴.

We are concerned with the revisions made under EPA's new proposal, which weakens the previously established standards for groundwater protection, safety, and response to potential spills. The agency is proposing to weaken groundwater monitoring and cleanup requirements without considering the widespread evidence of significant groundwater contamination recently revealed by the coal and power industry's own data. Already, under the 2015 rule's reporting requirements, coal ash waste sites across the country display evidence of contaminated groundwater.⁵ These proposed changes are unjustified, endanger both the public and the environment, and do not comply with the Resource Conservation and Recovery Act (RCRA).

Moreover, the proposal gives industry, states, and political appointees too much discretion to determine safety and groundwater monitoring standards, appropriate timelines for pond and landfill closures, and whether spill cleanups are adequate or even required. This represents a departure from the previous requirement that such determinations be conducted by professional engineers. Finally, the proposed changes suggest that one of the most important components of the 2015 rule – the requirement that owners and operators of coal ash dumps post certain information on publicly available websites – will no longer be required. This provision ensures that citizens, especially those living and working near coal ash dumps, have access to critical information regarding cleanup efforts, inspection reports, and groundwater monitoring.

The 2015 coal ash rule—while far from perfect—was clearly a step in the right direction in establishing a consistent, cohesive federal plan for the proper regulation of coal ash. The final rule was a result of extensive and thoughtful dialogue between affected entities and was applauded by key stakeholders. In contrast, weak and inconsistent rules like the EPA's new proposal increase the probability of major spills that endanger human health and threaten waterways, aquatic life, and livelihoods that depend on our country's pristine and unpolluted natural resources.

³ U.S. Environmental Protection Agency, Duke Energy Coal Ash Spill in Eden, NC, History and Response Timeline, <https://www.epa.gov/dukeenergy-coalash/history-and-response-timeline> (last visited May 11, 2018).

⁴ 80 Fed. Reg. 21,301 (April 17, 2015).

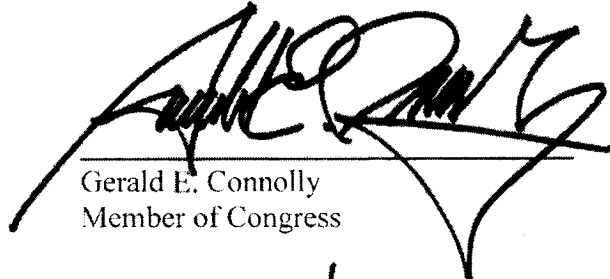
⁵ Coal Ash Uncovered: Polluted Groundwater Found At 14 Kentucky Sites. National Public Radio WKU, 25 June 2018, <http://wkyufm.org/post/coal-ash-uncovered-polluted-groundwater-found-14-kentucky-sites#stream/0>; Groundwater Contamination from Oklahoma Coal Ash Dumps and Noncompliance with the Federal Coal Ash Rule. Earthjustice, 18 June 2018, <https://earthjustice.org/sites/default/files/files/OK%20Fact%20Sheet%20Groundwater%20Contamination%20and%20Noncompliance%20FNL%206.18.18.pdf>.

We urge you to reconsider these harmful revisions and keep in place the core protections of the 2015 rule. Thank you for your consideration of our request, and please do not hesitate to contact us for additional information.

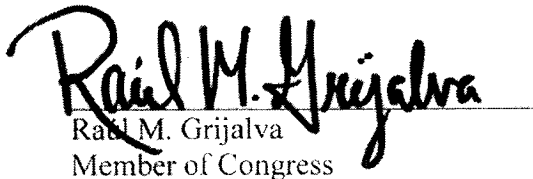
Sincerely,



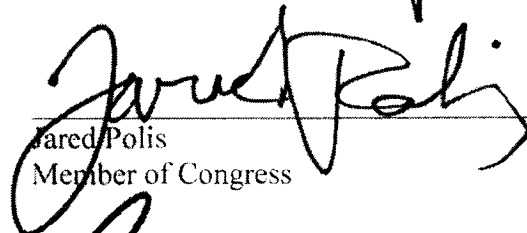
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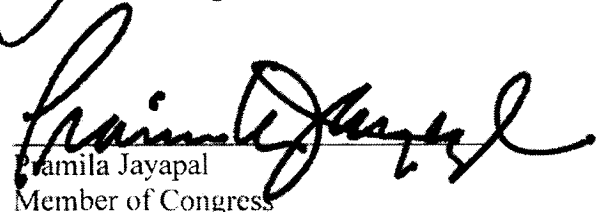
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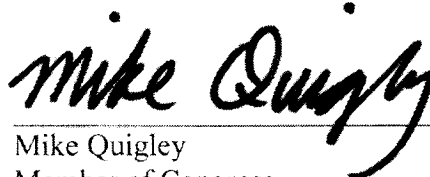
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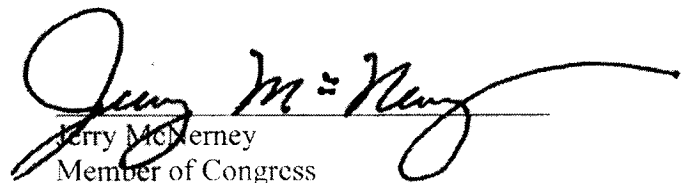
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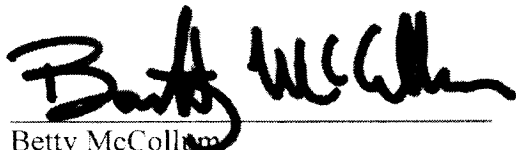
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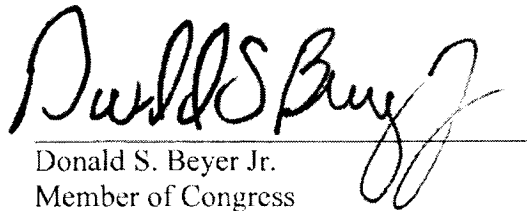
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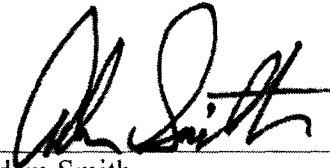
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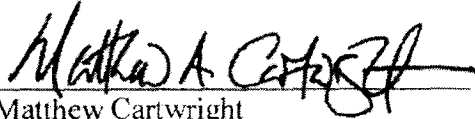
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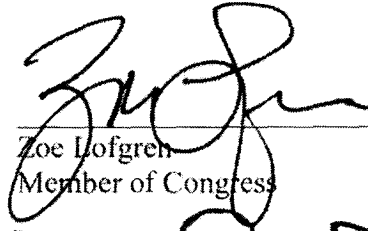
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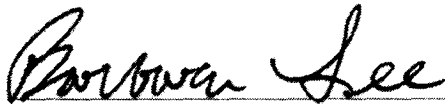
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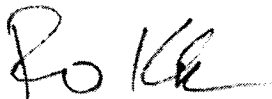
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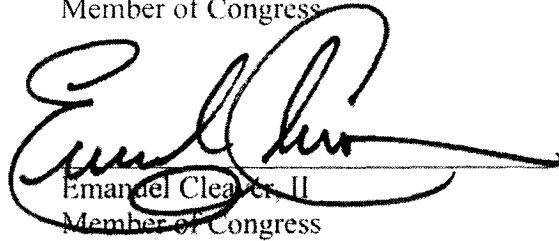
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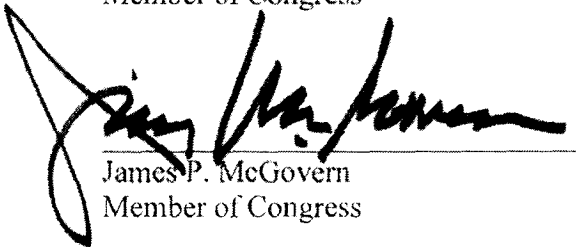
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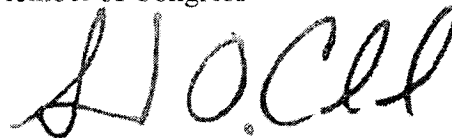
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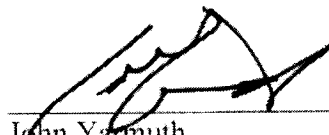
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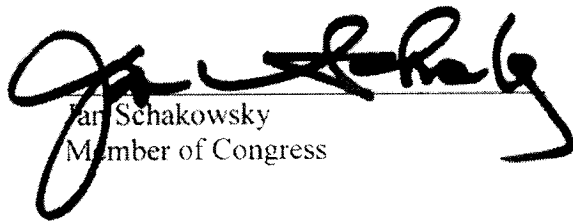
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